

18 MAR 2004



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Bruce E. Peacock, Esq.
BIEBEL & FRENCH
35 East First Street
Dayton, Ohio 45402

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|-------------------------------------|---|----------------------|
| In re Application of | : | DECISION ON |
| Clinton W. Pike et al | : | |
| Application No.: 10/088,291 | : | |
| PCT No.: PCT/US00/25907 | : | RENEWED PETITION |
| Int. Filing Date: 21 September 2000 | : | |
| Priority Date: 24 September 1999 | : | |
| Attorney's Docket No.: ASH 116 P2 | : | UNDER 37 CFR 1.47(a) |
| For: MASONRY, MORTAR, AND STUCCO | : | |
| CEMENT COMPOSITIONS | : | |

This is in response to the "REQUEST FOR RECONSIDERATION" allegedly filed on 29 May 2003, which is being treated as a renewed petition under 37 CFR 1.47(a).

BACKGROUND

In a decision from this Office on 31 March 2003, the initial petition under 37 CFR 1.47(a) was dismissed. The decision stated it had not been sufficiently demonstrated that a copy of the application papers were presented to the nonsigning inventor.

On 29 May 2003, petitioner submitted a "Request for Reconsideration" requesting reconsideration of the Office's decision of 31 March 2003 with respect to accepting the above application without the signature of nonsigning inventor Mr. Pike. Filed with the renewed petition is a copy of the April 22, 2003, May 13, 2003 cover letters mailed to Mr. Pike and his response to the cover letters of May 15, 2003.

DISCUSSION

37 CFR 1.181:

Petitioner's present petition is accompanied by a copy of the following documents, filed purportedly with the PTO as indicated in the hand-carry stamped postcard:

- (1) Renewed Petition
- (2) Request for Reconsideration

The postcard lists the above items and bears a USPTO date of stamp as 29 May 2003.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Petitioner's postcard is accepted as *prima facie* that the renewed petition and Declaration were deposited with the U.S. Patent and Trademark Office on 29 May 2003.

DECISION

The renewed petition under 37 CFR 1.181 is **GRANTED**.

37 CFR 1.47(a):

A petition under 37 CFR 1.47(a) must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor.

The renewed petition of 29 May 2003 has satisfied requirement 2 under 37 CFR 1.47(a). Thus satisfying all the requirements under 37 CFR 1.47(a). Mr. Peacock's averments do sufficiently demonstrate that a *bona fide* attempt was made to obtain the signature of Mr. Pike and that he refused to sign the required papers. An unsigned Declaration and the application was to Mr. Pike on April 22, 2003 and May 13, 2003 and that Mr. Pike refused the declaration as evidenced by his response of May 15, 2003.

Petitioner has now satisfied items (1), (2), (3), and (4) under 37 CFR 1.47(a), thus completing the requirements under 37 CFR 1.47(a).

CONCLUSION

The petition under 37 CFR 1.47(a) is **GRANTED**.

The Application Division and the International Division are authorized to accept the application as a 37 CFR 1.47(a) application and to mail a filing receipt. The application will be given a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of **29 July 2002**.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371.



Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459



Leonard Smith
PCT Legal Examiner
PCT Legal Office



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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Cliton W. Pike, Sr.
15611 Stablebrook Circle
Cypress, Texas 77429

In re Application of
Clinton W. Pike et al
Application No.: 10/088,291
PCT No.: PCT/US00/25907
Int. Filing Date: 21 September 2000
Priority Date: 24 September 1999
Attorney's Docket No.: ASH 116 P2
For: MASONRY, MORTAR, AND STUCCO
CEMENT COMPOSITIONS

Dear Mr. Pike:

You are named as an inventor in the above identified United States patent application, filed under the provisions of 37 CFR 1.47(a) and 35 U.S.C. 116. Should a patent be granted, you will be designated as an inventor.

As a named inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or to make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent agent or attorney presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.47(a) and (b).


Rafael Bacares

PCT Legal Examiner
PCT Legal Office
Telephone: (703) 308-6312
Facsimile: (703) 308-6459

Bruce E. Peacock, Esq.
BIEBEL & FRENCH
35 East First Street
Dayton, Ohio 45402



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WASHINGTON, D.C. 20231
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OFFICIAL GAZETTE NOTICE

37 CFR 1.47 Notice by Publication

Notice is hereby given of the filing of an application with a petition under 37 CFR 1.47 requesting acceptance of the application without the signature of all inventors. The petition has been granted. A notice has been sent to the last known address of the non-signing inventor. The inventor whose signature is missing (Bruce E. Peacock) may join in the application by promptly filing an appropriate oath or declaration complying with 37 CFR 1.47(a) and (b). The international application number is PCT/US00/25907 and was filed on 21 September 2000 in the name of Clinton W. Pike and Daivd H. Nordmeyer for the invention entitled MASONRY, MORTAR, AND STUCCO CEMENT COMPOSITIONS. The national stage application number is 10/088,291 and has a 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) date of 29 July 2002.